

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 04-10233-RCL

JONATHAN BEIJAR  
Plaintiff

v.

STANLEY FASTENING SYSTEMS, L.P.  
Defendant

**PLAINTIFF'S MOTION TO AMEND THE COMPLAINT**

Now comes the Plaintiff, Jonathan Beijar, and moves the Court, pursuant to Fed. R. Civ. P. 15, to amend the complaint in the above-referenced matter, as set forth in Exhibit 1 hereto.

Under Fed. R. Civ. P. 15(a), a party may amend his pleading by leave of court, which shall be freely given if justice so requires. The Plaintiff states that justice requires that the complaint be amended, as requested. The Plaintiff is requesting this amendment to add a claim for the Defendant's violation of Massachusetts General Laws Chapter 93A. The Plaintiff's Chapter 93A claim arises from the same events and circumstances addressed in his pre-amendment complaint.

Section 9 of Massachusetts General Laws Chapter 93A requires a person seeking relief for another's unfair or deceptive acts or practices in the conduct of trade or business, to mail a written demand for relief upon him/her and wait up to thirty days for a reasonable offer of relief prior to filing a cause of action, if the person bringing the claim is not engaged in the conduct of trade or commerce.

On January 21, 2004, the Plaintiff, an individual who is not engaged in the conduct of trade or commerce, mailed a written demand for relief to the Defendant. On January 26, 2004, the Plaintiff filed his complaint in this matter with the Bristol County Superior Court. On or about January 30, 2004, this action was removed to the United States District Court for the District of Massachusetts by a Notice of Removal filed by the Defendant.

The Plaintiff was precluded from asserting a claim for the Defendant's violation of Massachusetts General Laws Chapter 93A in his complaint because thirty days had not passed from the date of the Plaintiff's written demand for relief until the Plaintiff filed his complaint. The requisite thirty day period has now passed and the Defendant has not made a reasonable offer of relief to the Plaintiff. The Plaintiff is seeking to now amend his complaint to include a claim for the Defendant's violation of Massachusetts General Laws Chapter 93A.

A copy of the Plaintiff's Amended Complaint is attached as Exhibit 1 hereto.

Respectfully Submitted,  
JONATHAN BEIJAR  
By his attorney,



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Scott W. Lang, Esquire BBO #285720  
Lang, Xifaras & Bullard  
115 Orchard Street  
New Bedford, MA 02740  
(508) 992-1270

Dated: April 29<sup>th</sup>, 2004

### CERTIFICATE OF SERVICE

I, Scott W. Lang, Esquire, hereby certify that I have served the within **PLAINTIFF'S MOTION TO AMEND THE COMPLAINT** and **AMENDED COMPLAINT** on the Defendant by mailing true copies to its attorney of record: Christopher Duggan, Esquire, of Smith & Duggan, LLP, 2 Center Plaza, Boston, MA 02108, this 29 day of April, 2004.

  
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Scott W. Lang, Esquire

### L.R. 7.1 Certification

I hereby certify I have conferred with Defendant's counsel and have attempted in good faith to resolve or narrow the issue presented in this motion.

  
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Scott W. Lang, Esquire

# Exhibit 1